

31, and 32. In Appendix I, the portions being added are underlined; and the portions being deleted are enclosed in braces.)

**REMARKS**

This response is being filed after the shortened three-month statutory period set for responding to the Office Action mailed on August 13, 2002. Therefore, a petition and a fee for an extension of time are enclosed herewith.

Hereinafter, the claims that are pending after the entry of the amendments in this response are called "currently pending claims." This response amends currently pending Claims 1, 4, 13, 15, 23, 31, and 32. Upon amendment, the above-identified application will have three independent claims (amended Claims 1, 31, and 32) and 28 total claims (amended Claim 1, currently pending Claim 3, amended Claim 4, currently pending Claim 9, amended Claim 13, currently pending Claim 14, amended Claim 15, currently pending Claims 18-22, amended Claim 23, currently pending Claims 24-30, amended Claims 31 and 32, and currently pending Claims 33-38). The Applicant previously paid for at least three independent claims and 28 total claims. Therefore, no fee is due for excess claims.

Support for amending currently pending Claims 1, 13, 23, 31, and 32 to call for a pharmacologically active ingredient can be found in, inter alia, line 10 on page 2 of the specification. Support for amended Claims 4 and 15 can be found in, inter alia, originally filed Claim 4.

In the second paragraph of item 2 on page 2 of the outstanding Office Action, the Examiner rejects currently pending Claims 1, 9, 13, 18, 19, 23, 25-28, 31, and 32 for allegedly being indefinite because these claims use the phrase "one or more active ingredients" or the phrase "the active ingredient." The Applicant respectfully traverses this rejection because the currently pending claims are believed to be sufficiently clear to someone with ordinary skill in the art. Furthermore, this indefiniteness rejection is now moot and should be withdrawn because all of the independent claims (i.e., amended Claims 1, 31, and 32) call for a pharmacologically active ingredient; and since amended Claims 1, 31, and 32 call for a pharmacologically active ingredient, all of the subclaims (which are directly or indirectly dependent on the amended Claim 1, 31, or 32) necessarily also call for pharmacologically active ingredient. The term "pharmacologically active ingredient" is well-known to those with ordinary skill in the art of pharmaceutical compositions; and, in addition, the specification contains a very long description of such pharmacologically active ingredients (see line 21 on page 9 through line 22 on page 57 of the specification). Thus, the indefiniteness rejection that is set forth in the second paragraph of item 2 in the Office Action should be withdrawn because all of the claims, which call for a pharmacologically active ingredient, are sufficiently clear to someone with ordinary skill in the art.

In the third paragraph of item 2 on page 2 of the Office Action, the Examiner rejects currently pending Claims 4 and 15 because the phrase "other compatible ingredients" is allegedly indefinite. The Applicant respectfully traverses this rejection because the currently pending claims are believed to be sufficiently clear to someone with ordinary skill in the art. Furthermore, this indefiniteness rejection is now moot and should be withdrawn because amended Claims 4 and 15 do not use the phrase "other compatible ingredients."

In items 3-5 on pages 3-5 of the outstanding Office Action, the Examiner rejects currently pending Claims 1, 3, 4, 9, 13-15, 18-28, 31, 32, 34, 35, 37, and 38 for allegedly being obvious over Barz's European Patent Document No. EP 0390206 (hereinafter referred to as the "Barz document") in view of Gross et al.'s U.S. Patent No. 5,686,102 (hereinafter referred to as the "Gross patent"). The Applicant respectfully traverses this rejection because the prior art does not teach or suggest the claimed invention.

The Applicant is pleased to note that, according to item 6 in the outstanding Office Action, currently pending Claims 29, 30, 33, and 36 contain allowable subject matter.

In view of the foregoing, favorable reconsideration of the amended application is respectfully requested. It is submitted that the claims of record are in condition for allowance. Allowance of the claims at an early date is solicited.

This response amends currently pending Claims 1, 4, 13, 15, 23, 31, and 32. The amendments that are described in the preceding sentence were done to more fully claim the invention and were not done to overcome the prior art, were not done to overcome rejections under 35 U.S.C. § 112, and were not done to overcome any other rejections or objections. The amendments that are described in the first sentence of this paragraph shall not be considered necessary to overcome the prior art, shall not be considered necessary to overcome rejections under 35 U.S.C. § 112, and shall not be considered necessary to overcome any other rejections or objections.

The Applicant reserves the right to seek protection for any unclaimed subject matter either subsequently in the prosecution of

the present case or in a divisional or continuation application.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to Deposit Account No. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 C.F.R. § 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed; and the petition fee due in connection therewith may be charged to deposit account No. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C., 20231 on

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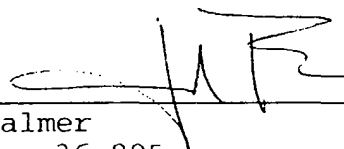
JOHN PALMER

(Name of Applicant, Assignee  
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(Signature)

(Date)

Respectfully submitted,

  
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Enclosures: Appendices H and I